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SOFT DRINKS □ BEER □ BOTTLED WATER □ WINE □ POWDERS □ JUICES □ SPIRITS

APRIL 8, 1983

Beverage Industry

MARKETING □ DISTRIBUTION □ TECHNOLOGY

AN HBJ PUBLICATION

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ATF considering appeal of district court ruling

WASHINGTON, DC—The Bureau of Alcohol, Tobacco and Firearms (ATF) was considering at presstime whether to appeal a district court ruling here in February requiring it to reinstate its alcohol ingredient labeling rule, which was issued in June 1980 and rescinded in November 1981.

Judge John H. Pratt agreed with a suit filed by the Center for Science in the Public Interest (CSPI) in March 1982 arguing that ATF "acted in an arbitrary and capricious manner" by rescinding the rule under the Reagan administration's regulation reform. He ordered that the labeling rule take effect no later than Feb. 8, 1984.

So far, the court has refused a government request that the judge stay the ruling pending an appeal.

The labeling plan requires beer, wine and liquor manufacturers to either list their products' ingredients or provide an address on the label indicating where consumers can obtain this information. The rule is aimed at alerting drinkers with allergies to alcoholic beverage ingredients about product contents. It is estimated that 475,000 to 1.7 million people may suffer adverse reactions to various additives used by the industry.

The Wine Institute, which challenged CSPI's suit on the

(Continued on page 27)

Safety of aspartame still under scrutiny by FDA

WASHINGTON, DC—A consumer advocate and a university professor have raised some questions about aspartame's safety as the Food and Drug Administration (FDA) considers whether to expand the use of the artificial sweetener to soft drinks.

In a letter to FDA Commissioner Dr. Arthur Ball Hayes, Dr. Michael Jacobson, executive director of the Center for Science in the Public Interest (CSPI) and Dr. Woodrow D. Monte, Arizona State University professor, have asked the agency to examine some of the byproducts formed as aspartame decomposes.

One substance they are concerned about is DKP, a breakdown product which could react with nitrites from other foods in the human digestive system, they claim, to form cancer-causing nitrosamines.

They noted that when FDA approved aspartame last year for table top use, the agency said that "under normal usage, the level of DKP is not likely to exceed 2% in aspartame."

However, Jacobson and Monte asked, "How can this level be reconciled when it is known that, when stored, the level of DKP in soft drinks and fountain syrups may exceed 50%?"

They based their questions and comments on a presentation by an unnamed scientist who said that "If aspartame

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Vending market continues upswing spurred by electronic innovations

By Laura Martinez
Assistant Editor

SPECIAL REPORT—Despite the decline in the total number of vending machines shipped in recent years, the beverage vending segment is experiencing major increases.

While figures for 1982 vendor shipments from the National Automatic Merchandising Association won't be released until later this year, sources indicate that the upswing that started in 1980 is still continuing.

NAMA's 1981 figures (the latest available) show that the number of bottle soft drink vending machines shipped increased to 76,937 in '81 as compared to 66,663 in '80 for bottles; cans, 96,180 in '81 and 94,814 in '80; cups, 8,509 in '81, 8,415 in '80

NAMA says the value of the machines themselves went up as well in 1981. Can machines jumped almost $2 million that year from $97.5 million in 1980 to $99.5 million; bottle machines made an even more significant leap, $68.1 million in '81 from $51.2 million—increases of approximately $17 million. Cup machines rose $2 million, going from $21.4 to $23.8 million.

Most important, however, is the steady increase in the dollar amounts of products vended through the machines. Bottles made the highest jump, with $1.3 billion in sales through all vendors in '81, compared to $1.2 billion in '80. Can and cup products sold were less significant, but there was an increase noted. Cans approximately $3 billion from $2 billion; and cup sales increased

(Continued on page 5)

Coke tests proprietary syrup system in FL

BI Package of the Week

ATLANTA—A new bag-in-box system designed to leave less than 1 oz. of syrup in the bag when drained, is undergoing testing in Florida outlets by Coke USA.

The system features a patented reciprocating pneumatic pump manufactured to Coke's specifications by Lancer Inc., San Antonio, TX. An elastomer diaphragm has been added to replace the piston and "O" ring commonly used in bag-in-box pumps. The advantages, according to Ira Smith, Coke's manager-equipment technology operations, are longevity and reliability. The diaphragm provides better sealing and less friction, resulting in fewer malfunctions, Smith told BI. Coke calls it the "lowest maintenance cost pump on the market."

The pump is activated by compressed CO_2. The low pressure CO_2 regulator (see diagram, page 26) lowers the CO_2 pressure leading to the pump to 50 psi; while the CO_2 pressure pushes on one side of the diaphragm in the pump, it pushes the syrup out. At the same time, it is drawing syrup in on the other side of the pump. The cycle is then reversed, or reciprocated. The CO_2 is

(Continued on page 26)

BI Week

• Armed with a barrage of new commercials to reinforce its number one position in food stores, Pepsi-Cola USA officials also told franchises at its annual marketing meeting that it was also preparing a food service and fountain push.

"Pepsi Now" is the umbrella ad theme for the firm's main product and thematic commercials are planned for all national spots. In "challenge" markets, 80% of the country, Alan Pottasch, sr vp, told the audience that the new theme would be wedded with the "taste-test" sell. Spending level: $40 million.

Pepsi-Free, now virtually national in distribution, will get new "harder-sell" flight of commercials for April/May screening. Spending for the new products is at a $33 million level.

A 40% boost in expenditures for Diet Pepsi is on

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Contents

Vending markets are continuing to prosper

Despite the decline in the number of vending machines being shipped in recent years, beverage industry executives will be pleased to find the beverage vending segment is experiencing major increases—not only in profitability, but in technology and appearance as well.

In a special report, **BI** takes a look at the beverage vending market's slow but steady rise to profitability during the past two years and major developments in technology that aided the increase. Also, the recent rollout of new beverage flavors by major soft drink companies was a factor and **BI** examines that aspect as well. See **page 1.**

Aspartame's safety still being questioned

A university professor and the executive director for the Center for Science in the Public Interest (CSPI) have raised some questions about aspartame's safety as the FDA considers whether to expand the use of the artificial sweetener in soft drinks, according to **BI** sources in Washington, DC.

The two consumer advocates have written a letter to FDA Commissioner Dr. Arthur Ball Hayes, asking him to examine some of the byproducts formed as aspartame decomposes. See **page 1.**

Excise tax impacts on beverage industry

The recent gas tax increase, which sparked a nationwide strike of independent truckers, included a number of provisions which affect the beverage industry.

An article supplied exclusively to **Beverage Industry** by James A. Hackney III, president of Hackney and Sons, Inc. was designed and written to inform the beverage fleet operator about the new law, signed by the President earlier this year. For more about this important development, see **page 9.**

Fruit juice and drink markets are growing

The outlook is bright for the expanding fruit juice and drink markets, says Albert G. Munkelt, retired senior vice president, marketing planning with Coca-Cola.

In another exclusive to **Beverage Industry,** Munkelt describes the fruit juice and drink segments as a six billion dollar business—nowhere as big as carbonated soft drinks overall when the "away-from-home market" is included, but about 60% of soft drinks sold in food stores.

The category, Munkelt writes, at six billion dollars, is three times the business size it was ten years ago. Munkelt offers insight into the orange and apple juice markets as well as fruit drink and packaging. See **page 16.**

New cleaning system saves water, energy

A new CIP system was installed at the renovated Glenmore Distilleries plant, Owensboro, KY, which is fully automatic and said to conserve water and energy. The company also says it reduces manpower on cleaning and sanitizing operations.

The modernization of the plant itself was a two-year, $17 million project that enlarged production and bottling facilities. It also involved moving a line of Mr. Boston products to Owensboro from Boston. Completed in May 1982, the plant is now in full production and has the capacity to produce 4.5 million cases a year. See **page 20.**

Diet Seven-Up has new ad campaign

"Diet Seven-Up tastes as good as it looks," says the new ad for 1983. For the first time, Diet Seven-Up is being advertised on prime time television. Messages are selectively scheduled Wednesdays through Fridays on two network shows at the same time to increase visibility. Both spots are 30 seconds, with the first spot featuuring joggers at a refreshment stand and the second features a man and woman meeting for lunch. See **page 24.**

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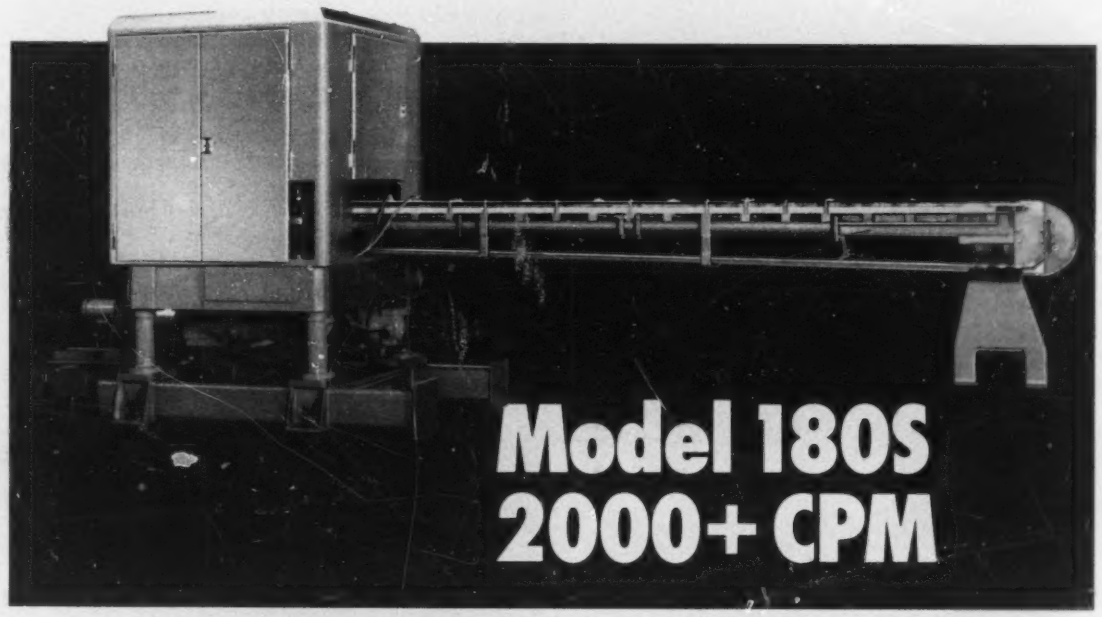

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Excise tax changes will have major impact on beverage industry distribution costs

By **James A. Hackney, III,** president, **Hackney & Sons, Inc.,** Washington, NC

Editor's note: The recent "gas tax increase" signed by the President, included a number of provisions which affect the beverage industry. The accompanying article was supplied exclusively to Beverage Industry *by James A. Hackney, III, president of Hackney & Sons, Inc. In addition to his expertise, Hackney also consulted with experts within the Excise Tax Branch of the Internal Revenue service. The article is intended to inform the beverage [illegible] operator about the new law. However, changes may evolve as special cases are decided. The author strongly recommends that readers consult with their firm's professional advisors for the final word.*

President Reagan signed the Surface Transportation Assistance Act of 1982, Public Law 97-424 on Jan. 6, 1983. This act, consisting of 109 pages in the Conference Report, makes some of the most sweeping changes in the Federal Excise Tax since the tax was imposed more than 50 years ago. The press generally referred to the Act as a "gas tax increase", but it is much more than that. It changes the manufacturer's excise tax on trucks, truck bodies, and trailers, and it also affects the annual Federal Highway Use Tax payable on highway units whose weight exceeds a specified threshold.

As with any new law, there are a few ambiguously worded provisions subject to some latitude in interpretation. Extensive conferences by the author with some of the persons involved in writing the law and with personnel of the Excise Tax Branch of the Internal Revenue Service, which will enforce the law, have helped to clear up many of the issues. The latest and most definitive information possible is presented in this article. However, as with any matter of law, the answers are still unofficial at this point. Special cases may have subtle differences which change the situation. Courts may overrule IRS rulings. Therefore, as with any matter of law and accounting, the reader should look to his own professional advisor for the final word. The Act makes changes in three major areas of excise tax: it changes the tax on fuels and lubricating oil; it changes the tax on trucks and trailers, and parts and accessories for them (including tires, tubes and tread rubber); and it changes the annual Highway Use Tax on heavy vehicles.

The law at a glance

- **Motor fuels:** Substantial increase in taxes paid, perhaps as much as $150 per vehicle annually.
- **Excise tax on new units purchased:** tax savings on route-truck chassis of 33,000 lbs. GVWR or less can exceed $2,000; on route-truck bodies, $1,000. For trailers, the increases can be from $500 to $700 on the truck-tractor and $600 for the trailer.
- **Highway use taxes:** Typical route body exempt, saving $81 per year if empty weight exceeds 13,000 lbs. Taxes on trucks with tractors for route trailers (GCWR 50,000 lbs.) will increase from $150 to $475.

It is estimated that the additional net revenue to the Treasury will be $1.7 billion in Fiscal 1983, $3.9 billion in Fiscal 1984, and an average of $4.25 billion from Fiscal 1985 through Fiscal 1988, for a total 6-year increase of $22.6 billion after all offsets. Most of this increase will come from the additional tax on fuels.

The act provides that the excise tax terminate on and after Oct. 1, 1988. However, realistically speaking, every previous tax bill since 1954 has provided a termination date for the excise tax, and the termination date has been extended without exception ever since. It is realistic to expect that this date will also be extended, and that the excise tax will not be allowed to expire.

The first category, fuels and lubricating oil, will see a dramatic increase in the level of taxation. Presently, gasoline, diesel fuel and special motor fuels have a federal excise tax of 4 cents per gallon. Gasohol and alcohol fuels have a 4 cents per gallon exemption, rendering them non-taxable. Fuels used for non-highway business use are currently taxable at 2 cents per gallon, and fuels used by state and local governments, private buses, not-for-profit educational institutions, farms, and qualified taxi cabs are currently exempt. Lubricating oil is currently taxed at 6 cents per gallon.

As publicized, the act increases the fuels tax by 5 cents per gallon, effective April 1, 1983. In other words, gasoline, diesel fuel, and special motor fuels will be taxed at 9 cents per gallon. Gasohol will retain its 4 cents per gallon exemption, making it taxable at 5 cents per gallon after April 1. Alcohol fuels will be totally exempt, as will non-highway qualified business uses, state and local governments, private buses, not-for-profit educational institutions, and farming. Qualified taxi cabs will retain their 4-cents exemption, resulting in a 5 cents-per-gallon tax.

> ***"Overall the beverage industry will probably save money as a result of the changes."***

The 6-cents-per-gallon tax on lubricating oil is repealed effective April 1, 1983.

Since virtually all beverage operations use either gasoline, diesel fuel, special motor fuel (such as LP gas), or gasohol, the net effect of the act will be a 5-cents-per-gallon increase in the price paid for fuel. The special-fuels provision is worth noting, since it is often overlooked. Non-taxable LP gas (for heating purposes) which is used in a highway vehicle becomes taxable as a special motor fuel, the same as diesel oil. A fleet operator who purchases these fuels tax-exempt must file a Quarterly Excise Tax Return, IRS Form 720, and pay tax on the exempt fuel used as motor fuel.

manufacturers excise tax

The second category of changes produces the most sweeping remodeling of existing tax law. Effective Jan. 7, 1983, the federal manufacturers excise tax is repealed on truck chassis and truck bodies suitable for use with (and ordinarily used with) a vehicle which has a gross vehicle weight of 33,000 lbs. or less. The tax is also repealed on truck trailer and semi-trailer chassis, and bodies suitable for use with a trailer or semi-trailer, which has a gross vehicle weight of 26,000 lbs. or less. For purposes of the act, a trailer is considered to be a separate chassis and body.

In recent years, the gross vehicle weight has become synonymous with the Gross Vehicle Weight Rating (GVWR) as defined under regulations prescribed by the National Highway Traffic Safety Administration, U.S. Department of Transportation. The IRS has traditionally followed the same guidelines in determining gross vehicle weights for manufacturers excise tax purposes in recent years. However, it is not required to do so. The act gives the Secretary of the Treasury or his delegate (Commissioner of Internal Revenue) the authority to prescribe regulations to determine the gross vehicle weight.

Virtually all truck chassis and truck bodies used in beverage delivery, as distinguished from truck-tractors and truck trailers or semi-trailers, have GVW ratings below 33,000 lbs. and become tax exempt on Jan. 7, 1983. Most beverage trailers have gross weights well over 26,000 lbs. and will continue to be taxable after January 7, 1983. A major feature of the new act is that the excise tax on truck-tractors, that is, trucks equipped with a coupling device such as a fifth wheel chiefly used for use in combination with a trailer or semi-trailer, is **not** repealed. Truck-tractors are subject to excise tax regardless of their gross vehicle weight rating. The impact of this will be discussed later.

A provision of the act also allows for refunds of excise tax paid on units for which the tax is repealed which were delivered on or after Dec. 3, 1982. Since this was a manufacturer's tax, the manufacturer must apply for the refund or credit. To obtain the refund or credit, the manufacturer must show that the unit was actually sold to the ultimate purchaser on or after Dec. 3, 1982 and that the tax has been refunded to such purchaser. The deadline for applying for refund is July 1, 1983, and the deadline for obtaining it is Oct. 1, 1983.

The tax on all automotive parts and accessories is also repealed, effective Jan. 7, 1983. Unlike trucks, there is no provision for refund for parts sold prior to that date. Notwithstanding the blanket repeal on parts, there is a special provision which will continue to make some parts taxable if installed on a taxable vehicle within 6 months after it is placed in service. This provision will also be discussed later.

The act also makes substantial changes in the taxation on tires, effective Jan. 1, 1984. Previously, tires for highway vehicles were taxed at 9.75 cents per pound of rubber weight. Laminated tires were taxed at 1 cent per pound, inner tubes were taxed at 10 cents per pound, and other tires were taxed at 4.875 cents per pound. Tread rubber, such as used in recapping, was taxed at 5 cents per pound.

The act repeals all of the excise taxes on all tires, tubes, and tread rubber, except those of the type used on highway vehicles. For highway vehicle tires, the first 40 lbs. of tread rubber will become exempt from tax. The next 30 lbs. will be subject to a 15 cents per pound tax. The next 20 lbs. will be taxed at 30 cents per pound, and rubber weight over 90 lbs. will be taxed at 50 cents per pound. For example, a tire with 100 lbs. of rubber weight would have been taxed at $9.75 under the old law. The new law will increase the tax to $15.50.

tax increase and change to retail level

The excise tax increases from 10% to 12%, effective April 1, 1983, for those items which remain taxable. In

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About the author

Hackney

James A. Hackney III is president of Hackney & Sons, Inc. of Washington, DC and is a registered professional engineer. He is recognized as one of the nation's leading experts in the field of Federal Excise Tax, having served more than 13 years as chairman of the taxation committee of the Truck Body and Equipment Association, Inc.

He moderated a national Excise Tax Seminar in Washington, DC in February to explain the new law, has spoken on the subject at four national conventions of TBEA. He has also testified before Congress on behalf of the truck body industry as well as authored five articles on the subject, which appeared in national trade publications for the truck body and trailer industry and beverage industry. He frequently serves as a consultant to law firms and others involved with the excise tax.

Hackney currently serves on the TBEA Board of Directors and is a member of its Beverage Body Manufacturers Div. He is a past president of the Boosters Association, Virginia Soft Drink Association.

Excise tax

(Continued from page 9)

addition, the tax is changed from a manufacturer's (wholesale) tax to a retail tax on that date. This change in the level to which the tax applies is probably the most sweeping change in the act.

Heretofore, the 10% excise tax applied to the manufacturer's wholesale price of the taxable item. If the manufacturer sold at retail, the wholesale price was established by Revenue Ruling as 90% of the actual retail price. In other words, the effective tax rate has been 9% on beverage bodies and trailers purchased by the user from the manufacturer. This has been the normal purchasing practice in the beverage industry. If the unit subsequently had additional parts added after purchase, the parts were taxable at a separate rate of 8%, but there was no further tax consequence for the basic unit. The labor for the installation of the parts was excise-tax exempt.

After April 1, 1983 all of this changes. Whereas the old tax rate was effectively 9%, the new tax rate will be 12%. Most beverage trailer users will experience a 33% increase in the tax they pay on trailers, since most trailers remain taxable.

Should a taxable unit be bought from other than the manufacturer, such as a distributor or a truck dealer, then the full marked-up price of the unit will be subject to tax at the 12% level. This differs from the old law, wherein the tax was a manufacturer's tax and there was no subsequent tax liability for progressive levels of sales.

It has no doubt occurred to some that a possible way to save tax is to purchase a taxable unit without several of its major detachable parts and then to purchase the parts separately in a tax-free transaction. Evidently the Congress anticipated this, because there is a provision in the act which taxes at 12% any parts installed on a taxable unit within 6 months after the date such unit was first placed in service, just like tax on the unit. This provision is effective April 1, 1983. The tax applies both to the part and the cost of installation, which differs marketedly from the old law; labor of installation was not taxable under the old law. There is an exemption if the parts and labor total no more than $200 or if they are bonafide replacements of parts originally a part of the vehicle. The owner of the company installing the part or accessory is now secondarily liable for the tax, meaning that in most cases he must collect the 12% himself.

The act provides definitions as to what is meant by the "first retail sale": the first sale other than for resale is the sale to which the tax applies. A manufacturer who might lease a vehicle rather than sell it is considered to be the first retail seller. In such cases, he must collect 12% of each lease payment until the total tax collected equals 12% of the retail price.

A manufacturer who uses an article rather than selling it is liable for the tax in the same manner as if the article were sold at retail by him. This is an often overlooked but important provision which will probably affect every beverage trailer user at one time or another, as will be explained later.

The retail tax will be based on the price of the article which includes any charge incident to placing the article in a condition ready for use. Trade-ins may not reduce the retail price for excise tax purposes. However, the retail price will not include state and local sales and use tax, nor will it include the excise tax.

It was mentioned earlier that a manufacturer who produces and uses a taxable article is liable for the tax in the same manner as if he sold it. This is an especially important provision because of a concept known as "further manufacturing". It is possible to purchase an article which is tax exempt and then perform some operation on it, or install some part, which converts it into a taxable article. This process is known as "further manufacturing". The owner of the article at the time of conversion is the "statutory manufacturer" and is liable for the tax.

"In recent years, the trend in the beverage industry has been sharply toward trailers . . . the act may cause a reversal of this trend."

For example, suppose a beverage-trailer user purchased a 30,000-lb. GVWR truck from his local truck dealer. A 30,000-lbs. GVWR truck may be used either to carry a route body or it may be used to tow a route trailer. The truck is exempt when used with a route body but taxable when used as a truck-tractor to tow a route trailer. The truck manufacturer and dealer may not know the intended use, and therefore the truck chassis may be sold tax free.

Subsequent to purchase, the beverage-trailer user may contract with his trailer supplier to install a fifth wheel on the truck to make it suitable for towing a route trailer. It is usual to perform other work at the same time, such as shortening the chassis frame and installing additional gas tanks, etc. Such action has significant tax consequences.

First, the act of installing the fifth wheel is "further manufacturing," in that it converts a non-taxable vehicle into a taxable vehicle. The owner of the truck chassis at the time of the conversion is the "statutory manufacturer" and is liable for the tax. This is normally the beverage trailer user.

In addition, the installer who converts the unit is jointly responsible for collecting the 12% excise tax on all parts and labor installed on the taxable vehicle within 6 months after it was first placed in service. Although the exact meaning of this is not certain, it is probable that the IRS will rule that the conversion creates a new vehicle, no matter how old the truck chassis was at the time of conversion. Therefore, any parts installed at, or within 6 months after, conversion become taxable.

The same situation applies to a tax-exempt trailer which is converted into a taxable trailer. For example, a user might choose to purchase a trailer with a light-duty axle which has a gross vehicle weight rating of 26,000 lbs. or less. Subsequently, he may remove the light duty axle (or certain components, such as tires, which reduce the axle rating) and replace it with one of heavier duty which increases the gross weight rating above 26,000 lbs. This converts the trailer from a non-taxable one into a taxable one and is "further manufacturing." The owner of the trailer at the time of conversion is liable for the tax.

penalties

There may be a tendency to say, "So what," make the conversion, and take one's chances on being caught. Do so at great peril; the potential penalty is quite severe! First, the assumption that the tax will be 12% of the user's total cost of the converted item is currently erroneous. Until it is rescinded, Revenue Ruling 73-560 establishes that the constructive sale price for items which are further-manufactured and then used by the further-manufacturer, will be the user's total cost plus a mark up of 10%.

In other words, the effective tax rate on further-manufactured items is 13.2% of the cost base. It is also normal for the IRS to add substantial penalties and interest which can easily exceed 100% of the original tax liability. Finally, if the IRS believes that there is a premeditated attempt to defraud the Treasury, it may seek a fraud indictment. This is not as farfetched as it seems; the IRS has successfully prosecuted executive officers of at least one major manufacturer of trailers for excise tax fraud.

The mechanics of reporting the tax on further manufacturing involves the filing of a Quarterly Excise Tax Return, IRS Form 720. The tax is computed based on 12% of the constructive sale price; and credit is deducted for any tax already paid, such as the tax on the parts and labor of installation. The difference is remitted to the Treasury.

It should be obvious from the foregoing that it is both simpler and cheaper to purchase the taxable item already manufactured to the user's specifications from someone else. There will be no further tax consequence, and the user will have the peace of mind that goes with compliance. The alternative is to "play games" with the law, and the chances of being caught are quite high. Some manufacturers and users attempted to circumvent the 1971 amendments to the Excise Tax Code, which established a 10,000-lb. GVWR threshold for taxation. The IRS quickly moved in on the subterfuges and eliminated them, at considerable expense to the transgressors.

highway use tax

The third category of tax changes involves the annual Federal Highway Use Tax. Prior to the new act, the tax was assessed at $3.00 per 1,000 lbs. of gross vehicle weight if the vehicle weighed more than 26,000 lbs. In other words, if a vehicle weighed 26,000 lbs. or less when loaded, it was exempt. If it weighed 27,000 lbs. loaded, the entire 27,000 lbs. were taxable. The total tax in such a case was $81.00.

The Internal Revenue Service applied the tax based upon the empty weight of the vehicle. Someone in the IRS decided many years ago that a truck was capable of a gross weight equal to twice its empty weight. Therefore, if the empty weight was 13,000 lbs. or less, the unit was exempt. If it was greater than 13,000 lbs., the IRS assessed an annual use tax equal to the lowest taxable category of 27,000 lbs., or $81.00.

The IRS followed a similar line of thinking for combination units (truck-tractor and trailer), except that it was assumed that a two-axle truck-tractor could tow a trailer of four times the tractor's weight. In other words, the total vehicle was assumed to weigh five times as much as the tractor. The tax was then assessed on the truck-tractor only, based on the assumed weight of the combination vehicle.

"Slots" were established for truck-tractors with varying empty weights, and the tax was assessed accordingly. For example, a two-axle truck-tractor with an unloaded weight of 7,000 lbs. to 9,500 lbs. was assumed to weigh an average of 8,000 lbs. Such a tractor was assumed

Table 1: Increases in highway use taxes[1]

Fiscal year beginning July 1	Applicable tax rate	Maximum tax
1984	$40.00	$1,600.00
1985	40.00	1,600.00
1986	44.00	1,700.00
1987	48.00	1,800.00
1988 (& thereafter)	52.00	1,900.00

[1]For gross weight exceeding 55,000 lbs.

Source: U.S. House of Representatives (Report 97-987 page 86), Surface Transportation Assistance Act of 1982-Conference Report

Copyright: Beverage Industry April 8, 1983

Table 2: Comparison of old and new use tax assessments[1]

Two-axle truck-tractor actual unloaded weight	Assumed total vehicle weight	Annual use tax under old law	Annual use tax 7/1/84-6/30/86
5500 to 7000 lbs.	30,000 lbs.	$ 90	-0-
7000 to 9500 lbs.	40,000 lbs.	120	$225
9500 to 11,000 lbs.	50,000 lbs.	150	475
over 11,000 lbs.	60,000 lbs.	180	800

[1]For two-axle truck-trailers

Source: IRS Form 2290 and J.A. Hackney, III

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to be capable of pulling a trailer of four times its own weight, or 32,000 lbs., for a Gross Combination Weight Rating of 40,000 lbs. The tax was therefore $120.00.

The new act increases the threshold for taxability for highway use tax from 26,000 lbs. to 33,000 lbs. In addition, a unit which passes the threshold is only taxed on the basis of its gross weight which exceeds 33,000 lbs. Under the old law, a unit which exceeded the threshold paid tax from the first pound.

For vehicles with gross weights of 35,000 lbs. or more, the act will produce an increase in annual tax, and in most cases, the increase will be dramatic. The act provides that units with taxable gross weight of at least 33,000 lbs., but less than 55,000 lbs., will be assessed an annual tax of $50 a year plus $25 for each 1,000 lbs., or fraction thereof, in excess of 33,000 lbs. Units which exceed 55,000 lbs. gross weight, but less than 80,000 lbs., will be assessed a tax of $600 a year plus the "applicable tax rate" for each 1,000 lbs., or fraction thereof, in excess of 55,000 lbs. Units with taxable gross weight of 80,000 lbs. or more will be assessed the maximum tax per year.

The increase in the Highway Use Tax becomes effective on July 1, 1984. The "applicable tax rate" and the maximum tax for units exceeding 55,000 lbs. gross weight will escalate from 1984 through 1988 based on the schedule shown on page 12, Table 1.

Both the old law and the new act provide that a truck chassis and body which is equipped with a pintle hook or other towing device is assumed to be intended for use as a combination vehicle, and the use tax is assessed accordingly.

Vehicles used less than 5,000 miles on public highways are exempt from the annual Use Tax. It is not inconceivable that some route trailers in central-city use may fall into this category. In such cases, the IRS will either waive the tax or refund it if it has already been paid, upon certification that the vehicle did not exceed 5,000 miles on the public highways during the taxable period (fiscal year). Should the unit exceed 5,000 miles, the exemption will be lost for that vehicle for that period.

Vehicles placed into service during the taxable period which are subject to Highway Use Tax will be liable for a prorata payment of the tax for the portion of the year during which they were in service, based on the number of months of use.

The Internal Revenue Service anticipates that it will continue to use a slotting system for assessment of the new tax based upon the empty weight of the truck-tractor only, without regard to the weight of the trailer. It is possible that the old formulas might be updated, and the IRS expects to receive some assistance from the Department of Transportation in establishing these guidelines.

Considering the dramatic increase in the annual tax, the IRS will probably establish more weight categories, so that each category will have a smaller tax difference. The IRS has until July 1, 1984 to develop these regulations, so taxpayers will have ample notice.

Since it is not certain how the tax will be assessed under the act, it is impossible to give an exact comparison. However, based upon the old policy, Table 2, page 12 gives a comparison of the old tax and the new tax categories of two-axle truck-tractors, which are the type in most common use in our industry for route trailers.

Most beverage fleet operators are already familiar with the annual Highway Use Tax and are paying it. For those who are not, the tax is reported by filing a "Federal Use Tax Return on Highway Motor Vehicles," IRS Form 2290. As with this and all IRS forms, additional information and advice can be obtained from your tax advisor and/or the nearest office of Internal Revenue Service.

". . . it is both simpler and cheaper to purchase the taxable item already manufactured to the user's specifications from someone else."

summary

In summary, dramatic changes have been made in the Tax Law. Overall, the beverage industry will probably save money as a result of the changes.

In the case of motor fuels, the effect will be a substantial increase in the annual tax paid, probably on the order of $150 per vehicle.

In the case of the excise tax on new units purchased, some will be considerably cheaper and some will be considerably more expensive. The tax savings on a route truck chassis of 33,000 lbs. GVWR or less can exceed $2,000, and the tax savings on a route-truck body can exceed $1,000. On the other hand, purchasers of route trailers and truck-tractors to tow them will find a tax increase from present levels on the order of $500 to $700 for the truck-tractor and $600 for the trailer.

In the category of annual Highway Use Tax, the typical route body will now be exempt, thereby saving $81 per year if it was taxable under the old law (empty weight exceeding 13,000 lbs). However, the typical route trailer with tractor has a gross weight of approximately 50,000 lbs. For that weight, the tax will increase from $150 at present to $475. Since this is an annual tax, it will have the greatest impact of the three.

Overall, the reduction in excise tax on the sale of route trucks and bodies, when amortized over their life, will more than offset the additional tax on fuels. Those route trucks with bodies weighing more than 13,000 lbs. empty will also save $81 per year in Highway Use Tax. Therefore, route trucks and bodies will be cheaper to buy and only slightly more expensive to operate under the new Act.

On the other hand, truck-tractors and trailers will be more expensive in all situations. The excise tax will add approximately $1,200 to the purchase price, and users also will pay about $500 more tax per year than presently. It is evident that the act was designed to assess a larger share of the cost of highway construction and maintenance to trailer operators. Over-the-road, long-distance haulers do not have a choice. Soft drink bottlers and beer distributors do.

In recent years, the trend in the beverage industry has been sharply toward trailers, with the most recent industry statistics showing approximately one-third of total-unit deliveries being trailers. The act may cause a reversal of this trend.

As with all business decisions, the choice of route delivery equipment is a matter of weighing the financial advantages of trailer operation against the additional tax cost under the act. In the months immediately ahead, many beverage fleet operators will be doing just that.

White Rock

(Continued from page 4)

like this drink. It's for the more occasional drinker of beer and alcohol."

But Morgan thinks Moussy will be a success for another reason.

"No one has put a substantial media budget behind a non-alcoholic malt beverage before. We will in selective markets. We really feel this product has a far better taste than any near-beer or malt beverage."

Morgan said that the thrust of his ad campaign will be in the New York-New Jersey metropolitan area. "The planning is not finalized yet," he added.

Morgan expects to spend about $.5 million in advertising on television, radio and magazines, using the slogan "the drink to choose when you choose not to drink."

"We plan to have the announcer consume Moussy on television," said Morgan. The FCC prohibits consumption of alcoholic beverages on TV commercials.

The beer will be primarily distributed through beer wholesalers. "Moussy will be available to beer wholesalers and other distributors who would not necessarily have a liquor license."

Morgan said he would welcome soft drink bottlers. "There are many states that don't have beer sold in grocery stores. We think we have much potential to be sold there. There's also much potential for bars and restaurants, but more of the table cloth restaurants than saloons," Morgan said.

Moussy will be distributed in New York, New Jersey, Connecticut, Massachusetts, Illinois, California and Texas. Five other states are pending; they are Florida, Maryland, Ohio, Pennsylvania and Virginia.

It will be sold in 11.1 oz. bottles in six-pack carriers. Depending on the state, Moussy will retail anywhere from $3.49 to $4.49 for a six-pack.

In addition, White Rock will be importing Cardinal Pilsener Beer from Sibra. It will also be sold in six-packs ranging in price from $3.99 to $4.99. It may eventually be sold in cans and on draft, he added.

For more information on **Moussy** circle 236 on service card.

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Bulk soft drink sales make slight volume gain

By Gary Hemphill, Associate editor

SPECIAL REPORT—While bulk soft drink sales continue to grow in volume, they have stopped displacing packaged sales as a total of the market.

The bulk segment of the soft drink market has been increasing over the last 15 years at a compound annual rate of 9.7%, but this growth has slowed over the last five years. The increase in bulk since 1976 has been at an 8% annual compound rate.

Why? Perhaps because of fast food restaurants. They have often been cited as the main reason for the inroads made in bulk sales over the last 20 years. For example, bulk sales were only 12% of the total market in 1965 and 22.4% of the market in 1981.

But it seems now the market is saturated with fast food restaurants and their popularity may have peaked. Thus while bulk sales continue to grow (about 3.7% in 1981), they are no longer doing so at the expense of packaged soft drinks.

The majors continue to hold onto the largest share of the bulk market with Coke far in front of Pepsi.

That could begin to change, though, with the increasing acceptance of the bag-in-box system, an alternative to steel transfer tanks. This could bring more "mom and pop" syrup manufacturers into bulk sales, one industry source believes, because the initial cost is less.

The bag-in-box consists only of a metallized bag enclosed in a corrugated cardboard box that is easily stored until it's ready to use. Cost is about $1.65 for one, compared to a steel tank, which runs over $35.

This system works with the aid of a pump, either electric or air, that pulls the syrup out of the bag up to the dispenser. Bag-in-box has been used for about 20 years in the dairy industry, but it's new to the soft drink industry.

Problems in designing an efficient pump have held back its development in the soft drink industry. In addition, few of the systems have been approved by the majors. (See related story, page 1.)

But now it appears that many of the bugs have been worked out of the system. In addition, approval by some of the major syrup manufacturers is eminent.

One industry source feels the bag-in-box system will certainly make big inroads in the market, but won't completely displace steel transfer tanks.

Where can the bag-in-box be especially applicable? At special events for which it would be impractical to buy a large number of tanks for a one-time event. Or in a situation where a bottler has long lines of distribution and doesn't own his own fleet. The disposable bag-in-box would be particularly useful here.

On the other hand, transfer tanks aren't on the way out because they already represent a major investment for bottlers; they can't simply be discarded.

For this reason, an industry source estimates that steel transfer tank companies can expect at least level growth in sales in the future.

While the bag-in-box system is cheaper in the short run, they may not be in the long run. One source estimates they are actually more expensive. "There are some transfer tanks around that have been in service as many as 20 years. Even if you include maintenance costs, this makes the steel tanks cheaper," the source said.

Here's a rundown on some of the bag-in-box manufacturers.

B-Bar-B, Inc., introduced the Syrup Pak at the 1981 NSDA convention in Los Angeles.

"It's a proven system," said Kenneth Hartung, director of marketing. Hartung said at the end of 1982, the system was in use in 600 to 700 locations.

"We're hoping the majors will approve it in '83. That will open a lot of doors for us," he said. It's already been approved by Sunkist and Lipton.

Hartung labels cost and convenience as the major advantages of the system. "We've talked to a lot of potential users and they feel they could realize a 25 to 45% savings by switching from steel transfer tanks to the bag-in-box system."

Grant Pedige, product manager for Liqui-Box Corp., located in Worthington, OH, said his company is "continually looking for new pump suppliers."

But he believes Shur-Flo offers the best pump on the market now. "We use that pump most of the time," he said. Liqui-Box has many applications outside of the soft drink industry now, but Pedigo expects major gains to come soon at the expense of steel transfer tanks.

Scholle's bag for bag-in-box systems was just approved by Coke because it met Coke's standards and offered the best taste.

Three companies are among the leaders in pump manufacturing for the system. They include Shur-Flo, Flo-Jet and McCann's.

Ernest Burnett, vp of Flo-Jet, said Coke, Pepsi and Seven-Up are testing their pump now. "There are a couple people using it now," said Burnett, which was introduced to the market last year.

With efficient pumps coming on the market and approval of the bag-in box by syrup manufacturers, it appears the bag-in-box is ready to explode on the market. While it probably won't completely displace the steel transfer tank, it should grab a sizeable share of the market. In the end, though, its effect on bulk sales will probably be minimal.

Soft drink industry packaged and bulk sales

Year	Total sales (Mil 12 oz.)	Packaged sales (Mil 12 oz.)	Percent packaged (%)	Bulk sales (Mil 12 oz.)	Percent bulk (%)	Total wholesale value (Mil $)
1981	95,033	73,746	77.6	21,287	22.4	20,015
1980	91,598	71,080	77.6	20,518	22.4	17,677
1979	87,948	68,336	77.7	19,612	22.3	14,973
1978	83,760	65,752	78.5	18,008	21.5	13,345
1977	77,945	61,499	78.9	16,446	21.1	11,527
1976	70,859	56,333	79.5	14,526	20.5	10,375
1975	62,652	49,683	79.3	12,969	20.7	9,398
1974	60,768	48,007	79.0	12,761	21.0	7,827
1973	60,346	48,277	80.0	12,069	20.0	6,223
1972	56,663	45,614	80.5	11,049	19.5	5,684
1971	53,657	43,462	81.0	10,195	19.0	5,347
1970	49,546	40,479	81.7	9,067	18.3	4,800
1969	46,610	38,546	82.7	8,064	17.3	4,370
1968	44,433	37,546	84.5	6,887	15.5	4,166
1967	39,520	32,683	82.7	6,837	17.3	3,459
1966	37,641	32,371	86.0	5,270	14.0	3,176
1965	33,669	29,326	87.1	4,343	12.9	2,736

SOURCE: National Soft Drink Association Sales Survey, 1965-1981

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Ocean Spray receives President's "E" Award

PLYMOUTH, MA—The US Department of Commerce recently awarded Ocean Spray Cranberries, Inc. with the President's "E" award for excellence in export expansion.

The President's "E" Award was created by executive order of President John F. Kennedy in 1961. It is presented by the Commerce Dept. in recognition to persons, organizations or firms for superior business achievement in exports over a sustained period, and for having achieved a breakthrough in a particularly competitive international market, according to the Commerce Dept.

Ocean Spray cranberry products, including processed juice drinks, sauces and fresh fruit, are exported to dozens of countries throughout the world with some products packed under licensing arrangements in Canada, Australia, Japan, Taiwan and United Kingdom.

In accepting the award, Ocean Spray president Hal Thorkilsen indicated that exports of the marketing cooperative's cranberry products have increased almost tenfold since 1974.

Ocean Spray Cranberries, Inc. is a marketing cooperative with grower-owners in Massachusetts, Rhode Island, Wisconsin, New Jersey, Washington, Oregon, Florida and Canada. The company also maintains manufacturing facilities in five of those states, and a plant in Texas.

After receiving that award, Ocean Spray itself named seven food brokers in respective categories as "Brokers of the Year."

The Los Angeles-based Horn & Associates was cited for outstanding performance during 1982 in the large retail broker category as well as the large non-grocery broker section.

Left to right: Edward Trundle, Ocean Spray; Horst Class, director Ocean Spray marketing international; Richard Schrofeter, Dept. of Agriculture; Jimmy Minyard, USDA; John Fitzgerald, Massachusetts Dept. of Agriculture; Hal Thorkilsen, president, Ocean Spray; Frank O'Connor, Dept. of Commerce; Warren Bowen, Ocean Spray.

Each year Ocean Spray recognizes brokers in the retail, food service and non-grocery trades. Winners were announced recently by the company at the National Food Brokers Convention in San Francisco. Other award winners include: Edwards/Kauffman of Portland, OR, mediumsize retail; Consolidated Brokerage of Greenville, SC, small-size retail; Atlantic Marketing Forces, Glen Cove, NY, large-size food service; Tom Trump Co., Milwaukee, medium-size food service; Bigner-Campbell, Shreveport, LA, small-size food service; and Bratt, Foster & Hayes, Syracuse, NY, medium-size non-grocery.

Minute Maid debuts juice with less acid

HOUSTON, TX—To meet the needs of consumers who like orange juice but not all its acid, the Coca-Cola Company Foods Division has introduced Minute Maid Reduced Acid Orange Juice product in frozen concentrate form.

Through a special ion exchange process, developed by the Foods Division and approved by the Food and Drug Administration, the citric acid level is reduced. No sugar or preservatives are added, and the nutritional quality is the same as regular Minute Maid.

According to test market studies by the Foods Division, reduced acid orange juice appeals to many consumers who would not ordinarily purchase orange juice because of their perceived sensitivity to the acid content.